

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-16573
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT May 31, 2007 THOMAS K. KAHN CLERK

D. C. Docket No. 05-02592-CV-MHS-1

MARTHA SUE NOLEN,

Plaintiff-Appellant,

versus

TRACTOR SUPPLY COMPANY,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

(May 31, 2007)

Before TJOFLAT, HULL, and HILL, Circuit Judges.

PER CURIAM:

Plaintiff Nolan appeals from grant of summary judgment in favor of

defendant, Tractor Supply Company. This Georgia case was removed to federal court under diversity jurisdiction.

Plaintiff was an invitee inspecting garden trailers displayed at defendant's store. One large trailer that was upright, leaning against the storefront, fell and struck plaintiff. There is no evidence as to how the trailer was placed against the storefront. There is no evidence of what, how or if it was dislodged from its "at rest" position and fell. Plaintiff and a friend were the only persons present when it became dislodged and neither offered any further explanation.

The district judge issued a carefully considered ten-page order granting defendant's motion. Georgia law controls. The case of Sams v. Wal-Mart Stores, Inc., 228 Ga. App. 314 (1997) eliminates the doctrine of res ipsa loquitor as support for a prima facie case and no other evidence shows actionable negligence.

The judgment is

AFFIRMED.